



5 February 2016

Australian Government Department of Environment
Att: Stephen Hunter – Independent Reviewer
Water Trigger Review
GPO Box 787
Canberra ACT 2601 Australia

Sent via email: wtreview@environment.gov.au

Dear Stephen,

RE: Independent review of the 'water trigger' legislation

Thank you for the opportunity to provide input into the review of the 'water trigger' legislation. We appreciate the opportunity to address issues of relevance raised in the discussion paper and also beyond.

NSW Farmers welcomed the implementation in 2013 of the water trigger in its current form via the passage of the Environment Protection and Biodiversity Conservation Amendment Bill 2013. NSW Farmers supported the increased federal oversight and regulation of coal seam gas and large coal mining development which has or is likely to have a significant impact on water resources. NSW Farmers' support of those amendments stemmed from our dissatisfaction with current state-based water policy in meeting the needs of the agricultural industry.

This historical context is important to understand on two fronts. Firstly, farming communities to this day remain bitterly disappointed with the current policy protecting agricultural water from the impacts of coal seam gas activity and large coal mining development in New South Wales. In particular there are large issues with the ability of the NSW government's strategic regional land use policy to protect agricultural land. Federal oversight of mining and coal-seam gas activity, which could have a significant impact on water resources, is required and indeed appropriate in New South Wales to place sensible limits on mining and coal seam gas activities and provide peace of mind to the industries and communities which rely on those resources.

Secondly, this historical context needs to be understood by the reviewer in order that there is a good understanding as to why the water trigger legislation was introduced. It was not introduced, as asserted in the discussion paper, '*in response to community concerns at a time when coal seam gas development was relatively new*,' it was introduced to deal with the cumulative impacts of large scale mining and coal seam gas developments on water resources in a particular area. We have annexed a transcript of NSW Farmers' comments to a Senate Inquiry on the issue. Full details and other stakeholder comments from that enquiry can be found [here](#).

When considering whether the water trigger legislation has actually been effective in protecting those water resources that agriculture relies upon, conclusive statements are clearly too early to make. However a real and practical example that NSW Farmers is highly involved with is the Shenhua Watermark coal project. The status of this project is that it the proponent has been asked to complete a number of additional steps under the conditions of their water trigger approval. The background to this case means that without this extra step and extra scrutiny, the project work would have already begun without the proper scrutiny on water impacts.

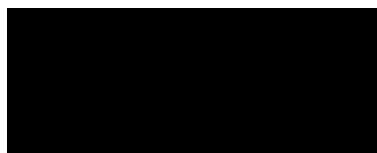
There is a clear and obvious area of improvement in the framework. NSW Farmers is of the view that that the Minister should be required (not just at his/her discretion) to ask the Independent Expert Scientific Committee ("IESC") to report back on whether the issues they identify in the process have been addressed at a later stage. For example, once the IESC has reviewed and reported on the issues and risks of the project, they should be then further consulted on any conditional requirements

that the proponent has been asked to meet. In the Shenhua Watermark case, the IESC provided advice ([here](#)) that identified a number of issues and concerns that were flagged with the federal Environment Minister. The Minister then developed a set of conditions to as part of the approval ([here](#)), however it was not until the Minister was publically pressured on 2GB about the lack of accountability to these conditions that he made a verbal commitment to send any additional work required under those conditions (i.e. the water management plan) back to the IESC for their advice ([here](#) at 24 mins 40 seconds). This is not only a clumsy process; it fails to take full advantage of the credentials and experience of the IESC panel. Our recommendation is that this should be tightened in order to require that this occur in all project approvals. Any “loop-back” mechanism described above should also be associated with adequate resourcing for the IESC to undertake this task.

We take the opportunity in this submission to endorse comments made by other significant representative organisations in agriculture, including the National Farmers Federation and the NSW Irrigators Council and Cotton Australia. All these groups have made the same strong point as us, in that in the absence of adequate state government legislation on this issue, the water trigger legislation is not only highly appropriate, but critically needed.

Clearly, any costs associated with the ongoing administration of the water trigger are outweighed by the benefits and in any case, should be shouldered by industry as part of a cost recovery model government implements for considering proponent’s impacts. These potential impacts to agricultural water in the context of mining and coal seam gas are impossible to quantify, due to their magnitude. So it is highly appropriate and indeed, critical, that this legislation remain and be strengthened in the ways explained above.

Yours Sincerely,



Derek Schoen
President

NSW Farmers' Association

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